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Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

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50 CFR Part 17

RIN 1018-AB 75

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Cactus *Leptocereus Grantianus*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Leptocereus grantianus* (no

common name) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. This cactus is endemic to Culebra Island, Puerto Rico. Only one population, consisting of approximately 50 individuals, is known to occur on the southwestern coast of the island. It is threatened by proposed housing developments and erosion of its shoreline habitat. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for *Leptocereus grantianus*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by July 20, 1992. Public hearing requests must be received by July 6, 1992.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622. Comments and materials received will be available for public inspection, by appointment, during normal business hours at this office, and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander at the Caribbean Field Office address (809/851-7297).

SUPPLEMENTARY INFORMATION:

Background

Leptocereus grantianus was discovered on the island of Culebra in

1932 by Major Chapman Grant. It was later described by Nathaniel Britton from material cultivated by Grant. The population has been much reduced in numbers and areal extent over the years, and it has also died out in cultivation (Proctor 1991).

Leptocereus grantianus is a sprawling or suberect, nearly spineless cactus which may reach up to 2 meters in height and from 3 to 5 centimeters in diameter. The elongated stems have from 3 to 5 prominent ribs with broadly scalloped edges. Ribs of young joints are thin and the small areoles may bear from 1 to 3 minute, nearly black spines which disappear as the joints grow older. The flowers are solitary at terminal areoles, from 3 to 6 centimeters long, and nocturnal. The outer perianth segments are linear, green, and tipped by an areole like those of the tube and ovary and the inner segments are numerous, cream-colored, oblong-obovate, obtuse and about 8 millimeters long. The fruit is subglobose to ellipsoid and about 4 centimeters in diameter (Britton 1933, Proctor 1991).

Leptocereus grantianus is endemic to Culebra, an island located just off the northeastern corner of Puerto Rico. On Culebra only one population, consisting of approximately 50 individuals, occurs in dry thickets along the rocky coast near Punta Melones (Proctor 1991). The island of Culebra is currently subject to intense pressure for rural, urban, as well as tourist development. Housing projects are currently proposed for the area. It is also threatened by erosion of this unstable, rocky slope.

Leptocereus grantianus was recommended for listing by Dr. George Proctor and Dr. Alain Liogier during a September 1988 meeting concerning the revision of the candidate plant species list in Puerto Rico and the U.S. Virgin Islands. It was subsequently included as a Category 1 species (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in the February 21, 1990 (55 FR 6184) notice of review.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to

Leptocereus grantianus Britton are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Leptocereus grantianus is found on privately owned land near the town of Dewey in an area subject to intense pressure for various types of development. Currently there is a proposal for home construction in the area where the cactus occurs.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The species has been cut in the past for livestock feed. In addition, its ornamental potential may result in take becoming a problem in the future (G. Proctor, pers. comm.).

C. Disease or Predation

Disease and predation have not been documented as factors in the decline of this species.

D. The Inadequacy of Existing Regulatory Mechanisms

The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Leptocereus grantianus* is not yet on the Commonwealth list. Federal listing would provide immediate protection and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

E. Other Natural or Manmade Factors Affecting Its Continued Existence.

The most important factors affecting the continued survival of this species is its limited distribution and limited numbers. Because so few individuals are known to occur in a limited area, the risk of extinction is extremely high. The steep rocky banks where the species is located are unstable and located close to the shoreline. Hurricane Hugo recently devastated Culebra and, although the impacts to this species were not documented, the passage of another hurricane might result in the elimination of this population.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Leptocereus grantianus* as endangered. Only one population consisting of 54 individuals is known to exist. Deforestation for development is an imminent threat to the survival of the species. Therefore, endangered rather than threatened

status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time, as such a determination would result in no known benefit. The number of individuals of *Leptocereus grantianus* is sufficiently small that vandalism and collection could seriously affect the survival of the species. Publication of descriptions and maps required when critical habitat is designated would only increase the potential from such threats, and therefore could contribute to the species' decline. The Service believes the Federal involvement in the area where the plants occur can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery process and through the section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal

agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Leptocereus grantianus*, as discussed above. Federal involvement is not anticipated where the species is known to occur.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, for endangered plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits for *Leptocereus grantianus* will ever be sought or issued, since the species is not

known to be in cultivation and is uncommon in the wild. Requests for copies of the regulations on listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358-2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Leptocereus grantianus*;

(2) The location of any additional populations of *Leptocereus grantianus*, and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of these species; and

(4) Current or planned activities in the subject areas and their possible impacts of *Leptocereus grantianus*.

Final promulgation of the regulation of *Leptocereus grantianus* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental

Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

- Britton, N. 1933. An undescribed cactus of Culebra Island, Puerto Rico. *Cactus and Succ. Soc. Amer.* 5:469.
Proctor, G. R. 1991. Status report on *Leptocereus grantianus* Britton. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Boqueron, Puerto Rico. 8 pp.

Author

The primary author of the proposed rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622 (809/851-7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 116 U.S.C. 4201–4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Cactaceae, to the list of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

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(h) • • •

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cactaceae—Cactus family:						
<i>Leptocereus grantianus</i>	None	U.S.A. (PR)	E		NA	NA